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AUTHOR Mulrooney, Virginia F.
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ABSTRACT

The State of California, as it seeks to revise the Master Plan for Higher Education, is grappling with circumstances similar to those underpinning the revision of the United States' original Articles of Confederation. The delegates to the 1787 Constitutional Convention had to identify the task before them; determine how the country would be governed; how it would be financed; and how the government would be evaluated. In determining the task of the community colleges, the members of the Committee for the Review of the Master Plan have decided to restrict the community colleges' mission, indicating that access to all shall be maintained; access "shall" be to transfer, vocational, assessment, counseling, and placement programs; access "should" be to remedial, transitional, and English literacy programs; and access "may" include community service. In dealing with the issue of governance, the Philadelphia delegates constructed a compromise based on federalism, which could provide an appropriate model for the determination of state and local governance responsibilities for the colleges. The colleges can also learn from the delegates' combination of elective and appointive approaches to evaluation and apply similar mechanisms to modify the use of accreditation and minimum standards as evaluation criteria. A summary of the report of the Joint Committee of the Legislature for Review of the Master Plan for Higher Education is appended. (EJV)

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# THE MASTER PLAN REVISITED

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VICE CHANCELLOR VIRGINIA F. MULROONEY

to the

CHANCELLOR'S CABINET

June 2, 1987

JC 870 219

THE MASTER PLAN REVISITED

This Summer of '87 we celebrate the bicentennial of the Constitution of the United States. That occasion should give pause to us. Let me pause today to compare that experience of 200 years ago with a current experience.

The current constitution of the United States is America's second constitution. Once one understands this central fact, many issues are clarified.

In 1776, the 13 English-American colonies rebelled against Great Britain. They fought the Revolutionary War--eventually--to obtain freedom from Great Britain. While fighting that war, the colonies established a constitution through which to govern themselves. They called that governing document the "Articles of Confederation" and that document created "The United States of America."

Clearly, the authors of the Articles of Confederation (or author as John Dickenson deserves credit for its content) wished a governance structure substantially different from that then in existence--and represented by the Acts of Trade and Navigation, the Tea Act, and "Taxation without Representation" which had led to the Revolution in the first place.

What the Articles of Confederation did was to resolve all governance issues in favor of the colony--or state--and to provide little power and authority to the central government represented by the second Continental Congress. What

governance structure did the Articles of Confederation create?

1. The states (colonies) were all powerful. In the central government, each state had one vote, regardless of size, population, etc.
2. In the central government, that state's power was reflected in the single source of central government power--the legislature--the second Continental Congress.
3. That Congress had little power--the power to wage war and peace (since the colonies were at war that seems an obvious grant of power), the power to borrow money (although not to coin it), and the power to admit new states to the confederation (the lasting achievement of the Articles was the Northwest Ordinance which admitted new states on a par with old states and which eliminated slavery in all new northwest states).
4. That Congress could not levy taxes, raise troops or regular commerce.

Dissatisfaction in some quarters led to the convening of the Annaplis Convention of 1786. At the suggestion of one delegate to that Convention (Alexander Hamilton) the delegates voted to convene a convention in Philadelphia in the summer of 1787 to "revise" the Articles of Confederation.

The delegates who convened determined to scrap the Articles and replace the governing document of the United States with a new document— the Constitution of the United States of America.

What was it this new governance document demanded? How did it differ from the Articles of Confederation which preceded it?

1. It was a product of compromise.
   a. 3/5 compromise
   b. slave trade/regulation of commerce
   c. electoral college
   d. Connecticut Compromise

2. It granted increased power to the central government--granting the right to tax, regulate trade, and to raise armies most importantly.

3. Within the central government-- it divided those powers amongst three branches of government which replaced the Second Continental Congress.
   a. Executive Branch--King vs. President
   b. Judicial Branch
   c. Legislative Branch--most important
      (1) Two houses
      (2) One representing the people (and providing for reapportionment and preventing 'rotten boroughs)
      (3) One representing the states (which had total representation under the articles)
      (4) One elected by the electorate; the second elected by the state legislatures
      (5) With the power of the purse in the hands of the legislative branch

4. It provided for votes by majority, with few exceptions. It set aside those exceptions as requiring 2/3 vote.

Honest differences of opinion with regard to that document set friend against friend. Among the "Federalists" who emerged from that Philadelphia Convention were George Washington, Alexander Hamilton, James Madison, and Edmund Randolph.

Among the Anti-Federalists were Samual Adams, Patrick Henry, and George Mason (the father of our Bill of Rights).

Closely allied with the Federalists were John Jay (our First Chief Justice and John Adams (then in England as America's Ambassador). Closely allied with the Anti-Federalists was Thomas Jefferson then in France as our Ambassador.

The men who had fought for independence from England were not agreed on this new Constitution. It is not surprising that many Americans had differences of opinion. Pennsylvania ratified only after the Anti-Federalists were bound and gagged and brought into the Statehouse so silenced, counted as present, and counted in the vote. New York delegates voted 30-27 to ratify only after a series of anonymous letters signed Publius, appeared in a New York City newspaper explaining the terms of the agreement. (History calls these letters the Federalist Papers--its authors Hamilton, Madison, and Jay--and still the most complete analysis of our basic constitution and the reason why it took the shape it did.) Virginia ratified only after being promised a series of amendments guaranteeing the rights of the people as opposed to the government. (It is one of our great splendors that this promise was redeemed. Those amendments, prepared by George Mason--Thomas Jefferson's teacher--became the Bill of Rights and set forth for all time the rights of the people with which no government may interfere.)

Two hundred years later, the State of California is grappling with a similar set of circumstances as they relate to the state's higher education institutions. Our Articles of Confederation (The Master Plan) is currently being revised. In that context, it might be useful for us to take a look at that 200 year old "revision" of the Articles of Confederation--the Constitution--and what that "Miracle in Philadelphia" can teach us about the Master Plan Review.

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"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

In the Preamble to the Constitution, its authors answered for 1787 the first of four questions which I believe must be answered in 1987--What shall be done?

The Philadelphia delegates, in the Preamble, identified the task before them. What shall be done? "We shall form a more perfect union." That more perfect union shall engage in certain activities. It seems to me that those groups who have addressed the "what shall be done" in California's Community Colleges have answered that question with a sense of unanimity. They have said:

1. Access to all shall be maintained.

2. Access shall be to:

   a. transfer programs which will prepare a student to move on to a four-year college

   b. vocational programs which will prepare a student for work

   c. assessment, counseling and placement programs which will insure success

3. Access should be to "remedial", "transitional", and English literacy programs which will insure success. (Frankly, I prefer the term "transitional" as used by the Joint Committee to "remedial" as used by the Commission as both more descriptive and more appropriate. And I am delighted that the Joint Committee has recognized, as few others have, that ESL is not remedial education.)

4. Access may be service to the community. Such access shall be fee-supported.

In essence, both Review Committees have narrowed the mission of our colleges. The colleges shall provide transfer, vocational and assessment programs. The colleges probably should provide transitional programs. The colleges can provide services to the community if they want to but don't ask the public for tax money to support those activities. This narrowed mission appears to have substantial support from all quarters and it is in dealing with the mission issue--the issue which has been most extensively discussed in the "field"--that all Reviews of the Master Plan have been successful.

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Our Philadelphia delegates second, and most thorny, question was "who shall do it?" Focusing on the answers which were invented in Philadelphia would, I believe, focus the debate on the Master Plan and the future of community colleges much more usefully than has yet been the case. Always practical, the delegates to the Constitutional Convention constructed a governance compromise which was necessary for the preservation of the United States. It is a governance compromise which is exemplified by this nation's very name--United States--united as one, individual as states. It is a governance compromise which is exemplified by the nation's motto "E Pluribus Unum"--out of many, one. It is the central, Great, or Connecticut Compromise reached in Philadelphia when neither the Virginia Plan for a strong central government nor the New Jersey Plan for a weak central government could obtain sufficient support. It is federalism. A division of power between the states and the national government.

I respectfully suggest that those who wish to deal effectively with governance in California's Community Colleges must fashion a federal solution. Authority must be divided between local boards and the state board. CCCT may wish to retain local power but, absent the power of the purse, their chances are minimal. The Board of Governors may wish to concentrate all power in its hands, but absent support from the field, its chances are minimal. More importantly, neither body should wield total power. What, it seems to me, must be done is for the interested parties to divide power along sensible lines. What should be done by whom and why is the question we should be asking.

I have provided each of you with a summary of activities recommended by the Joint Committee. The Joint Committee report assigns responsibility for the activities to various groups. I have omitted their assignment. It seems to me that a useful dialogue can ensue if all interested parties do two things:

1. Reach consensus on which activities listed should be performed.
2. Determine at which level they should be performed.

May I suggest to you some tentative conclusions which I have reached in a few areas as to illustrate my "federalism" suggestion. The two Review Committees suggest the development of a general education core curriculum. I support their suggestion. Further, I believe this to be a state issue not a local one. I would give that task to state agencies, although I am not certain as to whether control over the issue should be in the hands of the Board of Governors or in the hands of the three segments of higher education assisted by the K-12 segment. The two Review Committees suggest that the state look at degree requirements and possible new community college degrees. I agree with these recommendations. Degree granting is a state concern and should remain at the state level and in the hands of the Board of Governors. A degree from any of our colleges should have the approximate same value just as the "general education" common core of knowledge should be approximate for each of us. (I might add that the logical extension of my beliefs is the setting of national standards in this arena. Indeed, in most nations with Ministries of Education and national responsibility for education such is currently the case. Our federal system left education in the hands of the states, however.) On the other hand, save for minimum standards, I believe that the selection criteria and the hiring of faculty and administrators should be local

obligations. Most groups looking at this matter reach the same conclusion. However, they all fail to accept the logical response to that conclusion which suggests the maintenance of a reformed credentialing process.

Similarly, the granting of "tenure" or permanency is a local matter in which only the barest of state involvement--and then only by the state legislature and specifically only in the form of due process. The people at the scene are those most capable and able to judge the merit of any given employee.

I would urge each of you to take this list and divide the activities noted therein between state and local responsibilities.

Next, I would ask you to look, as the Constitutional Convention did, at the second half of the "Who shall do it" question. Having decided to "form a more perfect union," they evaluated what type of national government, within a federated system, they wanted. Most of the text of the Constitution deals with this issue. They wanted a bifurcated government with three equal branches with the powers of each branch separated and with each branch given certain "checks and balances" with regard to the other branches. They wanted this because they believed that man was "self interested" and divided into what they called "factions" and we later called political parties and interest groups. They wanted to balance out those factions in the interest of the common good or the "general welfare."

Once again, our founders give us good advice. For instance, once we have decided that hiring is a local matter, in whose hands shall we place it? Both Review Committees appear to suggest that it be placed in the hands of local

Academic Senates. I can't agree. I would divide responsibility here so as to prevent factionalism. In Los Angeles, a multi-campus district, for instance, I would give departments (not Senates) major hiring responsibilities and I would balance their goals as departments with those of the college as a whole and the district as a whole by placing administrators and persons from other colleges on any hiring committee. As to tenure, I would leave the final decision to similar committees after a review whose entire contents is made known to the employee. (Frankly, one of the things which I find most disturbing about both Review Committee reports is their tendency to "ape" the four-year institutions by attempting to duplicate some of their most offensive governance structures--peer review for tenure being the most offensive of all. Both Committees will have to come to grips with this reality when they complete their review of the Master Plan by looking more closely at our senior institutions.

In short, I believe that the most constructive and only practical approach to the question "who shall do it" is the federal approach and I urge all parties to give it serious consideration.

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The third question with which the Constitutional fathers had to deal--and the one which really brought them to Philadelphia in the first place--was "How shall the doing of it be financed?" I'm going to take a pass at that one today except for making three remarks. First, I believe this District's lead in searching for an answer to that question--in the form of the A. Alan Post contract--will make a lasting impression on the answer to that question.

Second, I believe that the Joint Committee's suggestions in this area are worthy of significant consideration. They serve to extend the boundaries of discussion--as the Post inquiry does--beyond the narrow confines of ADA vs. differential funding. Third, any useful decision in this matter must rise above the "what's in it for me" school of financing which dominates this discussion.

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The final question which needs be answered is "How shall the doing of it be evaluated?" The answer which the men in Philadelphia provided was two-fold: by the process of direct election at specified periods of time and by the process of indirect election at other specified periods of time. They developed a House of Representatives elected directly by the people from units which were reapportioned every ten years based on population movement. They developed a Senate with two Senators from each state, regardless of population, elected for longer periods of time by state legislators rather than the people. They developed as Electoral College of "wise" men. Those wise men would be elected by the people. They would convene. And using their wisdom, they would select a President. They developed a Supreme Court whose members would be appointed by that President with the advice and consent of the Senate. My they were an inventive lot!: Is there a lesson to be learned here? I believe there is. I believe we must search for an appropriate combination of elective and appointive approach to the evaluation of "the doing of it." A great deal more work needs to be done in this area.

However, I would also like to suggest two additional approaches to evaluation which currently exist and which, in revamped forms, go to the heart of evaluating, not governance, but education. They are accreditation and minimum standards. To the extent that accreditation evaluates an institution's success against commonly agreed upon standards, the process should be looked at as a part of any Review of the Master Plan. This has not been the case until now. I hope someone will take a look at that possibility. To the extent that accreditation is wholly private and still one of the great "old boys" network, although it is improving, I believe some changes must be made. Public members should be added to accrediting commissions and committees and the final accreditation report should be a widely disseminated public document.

Minimum standards are not something we hear much about. It is a source of general amusement to me to hear discussions about the "lack of power" of the Board of Governors when it already has the enormous power of establishing minimum standards in a host of areas (some in which it should not be involved, in my opinion) and the power to withhold total apportionment whenever any minimum standard is violated. Those few who have considered this issue have concluded that apportionment withholding is a brickbat approach to evaluation. I agree. (I also believe that state monitors who control every dime spent in a district in fiscal trouble, as recommended by the Legislature in the Peralta loan and as recommended in another form in both Review Committee reports, is similarly flawed.) Why not consider some proportional allocation withholding along the line of "let the punishment fit the crime". This issue at least deserves a look.

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In conclusion, I am certain that my remarks have opened some wounds. I can only hope that they have also opened some minds. If I have spoken today more as a historian than as a Vice Chancellor, I ask only for your consideration of George Santayana's remark that "a nation which does not know its history is doomed to repeat it." In looking backward, may we also move forward.

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Board of Governors, Education Code Review: Delineation of Governance Functions, May, 1987.

## A SUMMARY OF THE REPORT ON THE JOINT COMMITTEE OF THE LEGISLATURE FOR REVIEW OF THE MASTER PLAN FOR HIGHER EDUCATION

A. Access and Success

1. Make colleges accessible.
2. Access alone insufficient.
3. Success requires assessment, counseling and placement.
4. Such assistance shall facilitate not restrict.
5. Students/community need orientation to discuss rules/regulations/services.
6. Participation mandatory (is placement mandatory).
7. Skill level and student expectation reviews are necessary.
8. Staff development in these areas is required.
9. Periodic review of all such activities.

B. Mission and Functions (pp. 9-10)

1. Transfer education of the highest quality.
2. Quality vocational education.
3. Quality programs in transitional education (remedial and ESL).
4. State-funded non-credit adult education.
5. Fee-based community services if the colleges wish it.

On transfer education--

1. The segments develop a general education transfer core curriculum.

2. That the Master Plan lower-division student ratio among the segments be re-evaluated.

On vocational education--

1. Initiate needs analyses in vocational area.

2. Develop 2 + 2 programs with high schools and two-year and four-year institutions.

3. Connections between vocational "tracks" and general education be improved.

4. Vocational education transfer programs be jointly developed between the CC's and CSU.

5. Gender and ethnic under-representation in vocational programs be identified and rectified.

6. Reporting procedures for placement and actions relating to under-representation be developed.

7. Study the AAS degree.

On remedial education--

1. The success of an assessment program requires the existence of a full range of skill-remediation courses and support services.

2. Students in remedial programs must demonstrate progress.

3. Statewide standards for probation and dismissal to be reviewed and communicated to all.

4. Enrollment in non-remedial courses be restricted and contingent upon completion of prerequisites.

5. A limit on remedial courses be established. (Not applicable to ESL and learning disabled students.) ESL is not remedial education.

6. Study of non-credit adult education, looking at duplication among agencies, be conducted. After the study is completed, local agencies look at delineation of function agreements.

7. Study on the funding differences among agencies in this area.

On Community Services--

1. Must be fee-supported; tangential to other missions.

C. Faculty, Administrators, and Staff

1. Eliminate credentials.

2. New employment qualifications for faculty and administrators be established through the AB 3409 Task Force.

3. Current employees be grandfathered.

4. Faculty hiring and promotion by department.

5. Develop programs to increase the number of students entering the teaching profession.

6. Without displacing current part-time faculty, develop teaching assistantships with four-year college graduate departments.

7. Study the development of the Doctorate of Arts in Teaching.

8. Strengthen affirmative action.

9. Maintain the cap on part-time faculty while developing a new approach.

10. Consider "rolling" contracts for part-time faculty.

11. The development of a funding mechanism which would encourage the use of full-time faculty.

12. Develop a formal peer review prior to tenure.

13. Develop a process of peer and faculty review for administrators.

14. Lengthen the probationary period to four years. Two-year wild card; two-year due process; fifth year free/terminal.

15. Review the EERA with regard to delineation of functions between Senates and bargaining agents.

16. Review segmental comparative student services.

17. Develop inter-disciplinary programs.

D. Governance

1. Establish the dual governance structure of local boards and the Board of Governors through Education Code amendment.

2. Goal 69 - Board of Governors to exercise statewide leadership.

3. Board of Governors be increased to add five ex-officio members— Governor, Lt. Governor, Speaker, Superintendent of Public Instruction, Chancellor, voting student and voting faculty member serving six-year terms.

4. All Higher Education Boards add other segment-- Chancellors as ex-officio members.

5. Remove State Chancellor's employees from the Department of Personnel Administration.

6. Review Education Code and recommend repeal of appropriate sections.

7. Local boards elected in November of even-numbered years.

8. Strengthen the role of local Academic Senates in academic and professional matters.

9. Clarify the role, responsibilities, and accountability of CEO's.

10. Greater student participation in governance.

E. Finance

1. Task Force on Finance to consider funding including per capita and differential funding.

2. A fiscal differential between classes taught by full-time and part-time faculty; based on student needs; based on cost of adequate maintenance of facilities; among others.

3. Any new finance mechanism be factored in.

4. That perhaps a new COLA factor should be used or developed.

5. A Task Force on Performance - based funding.

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